

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Calderon Analyst: Deborah Barrett Bill Number: SB 314  
See Legislative  
Related Bills: History Telephone: 845-4301 Amended Date: April 2, 2009  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Interagency Intercept/Change Priority For Payment

### SUMMARY

This bill would revise the priority for refund offsets to place the nonpayment of penalties owed to the Restitution Fund in a higher priority than benefit overpayment accounts administered by the Employment Development Department and amounts owed to other state agencies.

This bill would make changes to provisions administered by the Victims Compensation and Government Claims Board that do not impact the department and are not discussed in this analysis.

### SUMMARY OF AMENDMENTS

The April 2, 2009, amendments would add the provisions related to refund offsets and other provisions not discussed in this analysis. This is the department's first analysis of this bill.

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide alternate reimbursements to the Victims Restitution Fund.

### EFFECTIVE/OPERATIVE DATE

If passed in the first year of the two-year session, this bill would be effective January 1, 2010, and would be operative for refund offsets on or after that date.

### POSITION

Pending.

### ANALYSIS

#### STATE LAW

Under state law, the State Controller is authorized to collect money that is due to one state agency by an individual by deducting the amount owed from credits due to such individual by another state agency. This procedure is called an interagency intercept.

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Franchise Tax Board (FTB) operates the Interagency Intercept Collection program on behalf of the State Controller. Annually, FTB's intercept process receives requests from state agencies, local governments, and the IRS to intercept tax refunds or lottery winnings of individuals or business entities that owe delinquent amounts to those federal, state and local agencies. Refunds are available for intercept after all existing tax debts have been satisfied. If there is more than one agency-offset request, the priority is as follows:

1. Delinquent child or family support cases enforced by a district attorney.
2. Delinquent child or family support cases enforced by someone other than a district attorney.
3. Delinquent spousal support cases enforced by a district attorney.
4. Delinquent spousal support cases enforced by someone other than a district attorney.
5. Unemployment benefits overpayment cases.
6. All other state agencies.
7. Cities and counties.
8. Private and post secondary education.
9. IRS.

#### **THIS BILL**

This bill would revise the priority for payment on refund offsets and lottery winnings to allow offset requests for nonpayment of penalties owed to the Restitution Fund to take priority after debts owed for delinquent child, family, or spousal support and before debts owed for unemployment benefit overpayments, debts owed to other state agencies, cities or counties, debts owed for private and post secondary education, and debts owed to the IRS.

This bill includes legislative findings declaring that the Legislature should not borrow or otherwise use funds from the Restitution Fund to offset other expenses or to supplement the state's budget because funds dedicated for the victims of crime should be reserved for that sole purpose, and continuous raiding of the Restitution Fund for purposes unrelated to the victims of crime have threatened the solvency of the Restitution Fund

#### **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would require reprogramming of the accounting systems to reprioritize the distribution of refunds.

#### **LEGISLATIVE HISTORY**

SB 92 (Aanestad, 2009/2010) would, among other things, authorize a hospital or health care provider to submit a claim for unreimbursed medical services to the Department of Health Care Services, who would then be authorized to submit those claims for refund offsets. This bill has been referred to the Senate Committee on Health.

AB 1175 (Torlakson, 2009) would authorize debts owed for unpaid bridge tolls to be submitted for offsets of tax refunds. This bill will be heard in the Assembly Appropriations Committee on May 6, 2009.

### **FISCAL IMPACT**

The accounting systems that facilitate the interagency intercept program would need to be reprogrammed to reflect the change in priority for payment prescribed under this bill's provisions. A cost estimate will be developed as the bill moves through the legislative process.

### **ECONOMIC IMPACT**

The provisions of this bill would not impact state income tax revenues.

### **LEGISLATIVE STAFF CONTACT**

Legislative Analyst  
Deborah Barrett  
(916) 845-4301  
[deborah.barrett@ftb.ca.gov](mailto:deborah.barrett@ftb.ca.gov)

Revenue Director  
Jay Chamberlain  
(916) 845-3375  
[jay.chamberlain@ftb.ca.gov](mailto:jay.chamberlain@ftb.ca.gov)

Asst. Legislative Director  
Patrice Gau-Johnson  
(916) 845-5521  
[patrice.gau-johnson@ftb.ca.gov](mailto:patrice.gau-johnson@ftb.ca.gov)